

BUCHANAN COUNTY PLANNING AND ZONING

St. Joseph, Missouri

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James Whitson, Chairman
Wayne Barnett, Vice - Chairman
Johnaphine Fenton, Secretary

MINUTES OF THE BUCHANAN COUNTY PLANNING AND ZONING COMMISSION

April 10, 2019

The Chairman, Jim Whitson, called the Buchanan County Planning and Zoning Commission meeting to order at 7:00 p.m. in the Thomas J. Mann III Room # 223. This room is located on the 2nd floor of the Buchanan County Courthouse, 411 Jules Street, Saint Joseph, Missouri, 64501.

Glen Frakes, Shirley Day, Rodney Fry, Pat McLear, Steve Reardon, Johnaphine Fenton, Fred Corkins, and Chairman, Jim Whitson, were the Board Members present for roll call.

Also present were Chad Gaddie, Legal Counsel, Ron Hook, Western District Commissioner, Scott Burnham, Eastern District Commissioner and Denise Embrey, Planning and Zoning Director.

The minutes were presented from the November 14, 2018 and January 9, 2019 meetings. With no additions or corrections, the minutes were approved as presented.

AGENDA

ITEM # 1 – A Conditional Use Permit request by James Sandlin to place two (2) Single Family Dwellings on a six (6) acre m/l parcel located on SE State RT MM, Faucett, MO, 64448 in Section 5, Township 55, Range 34.

REPRESENTATION OF REQUEST

James Sandlin, 14391 SE State RT MM, Faucett, MO, 64448: “I would like to build two (2) 1,500 plus square foot ranch style houses, stick frame construction, on two (2) tracts of marginal pasture land across from my house on State Route MM Highway. I moved to 14391 State Route MM in Faucett in 1981. The farm is now 167 acres. Since that time, 33 houses and a commercial building have been built within a 1 to 1½ mile radius of my house. Of the eight (8) letters that the Zoning Board mailed, one persons house was there in 1981, and that’s the Roberts family. One letter was also sent to an unimproved 60 acre farm owned by John Meyer. Six of my neighbor’s homes that received letters, their homes had been built at the time I moved in there. It was right after I had moved in there. I have two sons and six grandkids. It is my hope that at some point they will move close to me. One set lives in Wyoming and one set in Agency. In the interim, I would rent them out to help costs and it would supplement my retirement income. I have had this house idea in my mind for several

years. The proposed power line has been on again and off again for seven long years. I am ready to move forward.”

Mr. Whitson, Chairman, asked if these were going to be stick built houses on a basement or a slab. Mr. Sandlin replied they would be on a foundation with a crawl space. The houses would not be pre-fab or barn houses. The houses would have vinyl siding and a traditional roof.

Mr. Whitson, Chairman, then asked for any questions from the Commission.

Johnaphine Fenton: Board Member: “What kind of septic system are you going to use?”

Mr. Sandlin: “It will be like a 1,200 gallon septic tank with laterals.”

Ms. Fenton then asked what he was going to do about the ravine since he could not run it into there.

Mr. Sandlin: “No, you can’t do that. I have used Amos Brothers in the past for septic work and all the neighbors around me have septic, so I don’t foresee any problems there. The EPA won’t let you run it anywhere except laterals.”

Mr. Whitson, Chairman, explained it would have to be an approved septic system. He would have to have a soil test to determine what type of system would be installed.

Shirley Day: Board Member: “Have you had a perc test done yet?” Mr. Sandlin replied he had not, since this was step one.

Denise Embrey: Director: “How do you intend to split that parcel? Are you going to take out the one acre and then there is the ravine. Are you going to split it into two pieces?”

Mr. Sandlin: “It will be three acres right on the very north end and then three acres next to it. It should bring it all the way down to where the pond is. There is ten acres in that piece total.”

Mr. Whitson, Chairman, then asked for any other questions from the Commission. With none presented, he then asked if anyone would like to speak in opposition to this request.

OPPOSITION

Abraham Black, 14450 SE State RT MM, Faucett, MO 64448: “I’ve got thirty acres which is basically right across the street from Jim’s house. I have talked to all the neighbors in the close vicinity where this is going to happen and from what I can tell, we are all on the same page. I have told Jim that I am really not on board with this because it would be one thing if they wanted to come in and build a permanent house for grandkids or something like that, but as far as a slab house for rental houses, I know me and everybody I have talked to is kind of on the same page. Our house and our land is a huge investment for us. We take care of it and things like that. I don’t want to look out my front door where the only two houses I see right now are Jim’s and his brothers, and see two rental houses with stuff all around them and everything else out there because there is no basement or anything else. Everybody on our street, as far as I know, owns their own home and takes care of it. I moved out of town to get away from something like that.”

Mr. Whitson, Chairman, again asked for any other questions from the Commission. With none presented, he then asked if anyone else would like to speak in opposition to this request.

Dale Sandlin, 14191 SE 75 RD, Faucett, MO 64448: “I am Jim’s brother and probably the closest neighbor to these houses that are coming up. I just want to say, obviously, I built there five years ago and now that I am there, I wouldn’t have the nerve to say it is all mine and I don’t want to see no growth in this County. That’s one thing I think this County could really improve on. We are talking new construction, probably 2,000 square foot, vinyl siding, probably as nice as my house. I know my taxes are pretty good. I just want to point out we are not on the same sheet. I have three grandkid’s that are older than Jim’s, so mine might have first dibs on the house, I hope. I am pretty sure it will be family because that’s just a natural migration to a good school district. Once you have children and grandchildren, they are looking to get out in the country and away from the city in a good school district. He has 160 acre, so obviously he will get the houses somehow. There are probably different ways where we wouldn’t have to come into this meeting to get them. With that being said, I would just as soon cooperate and get the houses the way he would like it. I would much rather have two houses for neighbors instead of a big hog lot or something like that. It’s a good school district, good tax revenue for the County and growth for the County. There are renters in the neighborhood, one right down my road. They are the nicest people you could ever meet. A renter is not a bad thing. The nice thing about a renter, if you don’t like the way they live, you can ask them to leave and clean up your neighborhood. If you’ve got a neighbor that doesn’t, then you are stuck with them. So, you can control that. You have a tendency to control it really tight. I have a few rental houses and if they were right beside me, I would be a little more picky than compared to across town. So anyway, that’s my biggest point. We all moved there. When he moved there, none of the people were there. I don’t think that should be a judge whether you can put a house there or not.”

Mr. Jim Sandlin: “On the septic, I think I had Amos Construction give me a bid. I am pretty sure they can get a septic to work down there. In the worst case, you could probably do a lagoon, put some fences around it and never see it.”

Cyndy Sandlin, 14191 SE 75 RD, Faucett, MO 64448: “I just have one question. If everybody who is on the same page that doesn’t want it, where are they? They all got letters.”

Mr. Whitson, Chairman, responded there were several people back there that wanted to speak. She said everyone she had spoken to didn’t mind it at all.

Adam Ford, 6331 SE State RT DD, Faucett, MO 64448: “I have farm property that joins Mr. Sandlin’s property that is in question just to the north and to the west. I am in full agreement with Mr. Abraham Black and the words he said earlier.”

Sandy Bradford, 14650 SE State RT MM, Faucett, MO 64448: “I want to know if there is going to be any kind of garage or any kind of outbuilding to help put people’s stuff in? I just hear about the house size. That’s one of my biggest concerns because if you don’t have a basement or anything to put stuff in there will be all kinds of stuff sitting outside.”

Mr. Jim Sandlin: “There will be a two car detached garage.”

Mr. Whitson, Chairman, then asked if anyone else would like to speak and for any comments from the Commission. With no further questions or comments, the hearing was called closed and roll was called to vote on Item # 1.

DECISION OF THE PLANNING & ZONING COMMISSION

Glen Frakes: “Yes – Compatible.”

Shirley Day: “Yes – Good use of the property.”

Rodney Fry: “Yes – Good use of property.”

Pat McLear: “Yes – Best use.”

Steve Reardon: “Yes – Best use.”

Johnaphine Fenton: “Can I ask when he gets analysis, will he have to come and give it to us?” It was determined that this was taken care of through the Planning and Zoning Office. “What if it doesn’t pass?” **Jim Whitson, Chairman,** responded he would not be able to build. “Yes – Good use of that type of property.”

Fred Corkins: “Yes – I think it is the best use for that property.”

Jim Whitson: “Yes – Best use.”

Mr. Whitson, Chairman, then announced that Item # 1 had passed. He explained there was an appeal right if anybody wanted to appeal it. It would go before the Zoning Adjustment Board and to contact Denise and she could set that up, but it had to be within a thirty day appeal period.

Item # 2 – Open Discussion: Mr. Whitson, Chairman: “We’ve got several things to discuss. First of all, I might mention, even though he is not here tonight, Wayne Dale Barnett does not want to be Vice-Chair. He has resigned. He is going to stay on the Committee, but doesn’t want that position. So, we need a new Vice-Chair. I am open for nominations at this point.”

Steve Reardon was nominated to fill the Vice-Chair position. With a first and a second and no other nominations, a motion was made to close the nominations and elect by acclamation. With a second for that, Board Members unanimously elected Steve Reardon to serve as Vice-Chair.

Mr. Whitson, Chairman: “Another thing we are going to discuss is the amount of acreage required for a Conditional Use Permit.” Denise Embrey, Director, explained the current requirement was one (1) acre now.

Mr. Whitson, Chairman, explained to the new people on the Board there were several things that were different between a Conditional Use Permit and a rezoning. On a Conditional Use Permit, you can put conditions on what they are going to put there. On a rezoning, you can not. However it is zoned, that’s the way it is. Some of the things we have done on a Conditional Uses, we’ve had them put fences up, we’ve had them do lights and things like that. With a rezoning, you can’t do any of that. The Director said she had one suggestion to bump it up to sixty (60) acres. That suggestion was met with several negative remarks.

Mr. Whitson, Chairman: “Another thing, and maybe this is a bigger thing, a Conditional Use, if you are going to have an appeal, like tonight, it goes before the Zoning Adjustment Board. On a rezoning, it goes to the County Commission.”

Shirley Day: Board Member: “Pro’s and Con’s?”

Mr. Whitson, Chairman: “I think I kind of confused the issue. We’ve got two different things going. We are just wanting to change the amount of acres, and I don’t know if we are wanting to change it or not, we are just wanting to know the requirement...”

Steve Reardon, Vice-Chair: “I like the option of smaller acres. As long as the septic is taken care of, I don’t think it is necessary to restrict them because septic is the issue most of the time, isn’t it, most of the time?”

Denise Embrey, Director, responded it was because you had to have the acre for the septic system. Steve Reardon, Vice-Chair, replied it seemed like such a waste to have to mow down to (inaudible) acres.

Mr. Whitson, Chairman: “We are trying to keep farming or agriculture, so if you take out five to six acres for a house, maybe four of those acres could be used for something else useful.”

Fred Corkins: Board Member: “If you get into a poor soil situation, you can’t do a lagoon on one acre.” Several Board Members were in agreement with this since an acre is not very big.

Mr. Whitson, Chairman: “If you are building a very big house, and you’ve got the setbacks, an acre is a pretty tight fit.”

Steve Reardon, Vice-Chair: “Do they usually buy these properties and then come in and want to conditional use them or would they intentionally buy them and then...I mean you would hate to hang somebody on an acre, but that’s their problem.”

Shirley Day: Board Member: “If they buy an acre and then they can’t build what they want on it, that’s their problem. That’s not our problem, that’s their problem.”

Glen Frakes: Board Member: “We don’t run into that as much as we used to. They used to just buy a piece of ground and then see if they could get it rezoned but you don’t see that as much as you used to anymore. What’s the matter with two acres?”

Mr. Whitson, Chairman: “Well, I was just thinking the same thing. Maybe raise it enough for a bigger house and you would have plenty of room for a septic and maybe a detached garage, little outbuilding or a service building.”

Steve Reardon, Vice-Chair: “I still think if it is not an issue, really, if they want to live on two acres...”

Shirley Day: Board Member: “If they are going to build another house, they will have to buy more acreage. They will have to buy two acres if they want to build a house.”

Glen Frakes: Board Member: “But, like I said, if you get into a septic tank or laterals...”

Steve Reardon, Vice-Chair: “It doesn’t guarantee it if you get two acres. If it’s not going to work on an acre, it may not work on two acres.”

Fred Corkins: Board Member: “On two acres, you would have enough room to do stuff. That’s the only advantage I can see.”

Mr. Whitson, Chairman: “Are we taking action or is this just something to discuss and have to have a public hearing to change it?”

Denise Embrey, Director: “I think at this point it is just discussion and then we will have a hearing later.”

Mr. Whitson, Chairman: “Is that correct? We are just kicking it around and then we will have to have a hearing later?”

Chad Gaddie, Legal Counsel: “You haven’t had a formal proposal, so this is just discussion.”

Mr. Whitson, Chairman: “I kind of like the two acres because that will give you a little more leeway as far as an outbuilding.”

Shirley Day: Board Member: “So, what you are talking about is before somebody can request a Conditional Use Permit, they have to have a minimum of two acres. Is that what we are saying? Can they request it on less than that?”

Denise Embrey, Director, explained if it were less than two acres, they would have to request rezoning.

Mr. Whitson, Chairman: “So, what is the general consensus? Do we want something drawn up to make it two acres?”

Glen Frakes, Board Member, responded it would be fine with him since he thought one acre was too small. Several other Board Members agreed.

Mr. Whitson, Chairman: “A square acre is 207’ square, so if you have setbacks, you don’t have a whole lot of room to do anything.”

Fred Corkins: Board Member: “You have to be 75’ from every property line with a lagoon, and then you’ve got a 40’ x 40’ lagoon on a bigger house and then you’ve got another 100’ setback from the house.”

Mr. Whitson, Chairman: “Okay, we think we want to raise the Conditional Use to two acres then.”

The next topic on the Agenda was Medical Marijuana manufacturing & distribution, zoning regulations, restrictions and application fees.

Chad Gaddie, Legal Counsel: “I can get you up to speed on it. Medical Marijuana is handled by the Missouri Department of Health and Senior Services. They are in the process of taking applications right now for cultivation facilities, dispensing facilities, testing facilities and manufacturing facilities. All they are doing is taking applications, but they are also in the process of forming regulations regarding land use, security, the number of plants, basically what you can do once you get a permit. Those regulations will be published June 4th. Once those regulations are published, we will know what the State regulations are and that will be the point when we can formulate our own regulations as to how we want to handle it in Buchanan County. Most counties are waiting to see what the State publishes before making their own regulations.”

Mr. Whitson, Chairman: “Is it one of those things like we have done in the past, just use the State regs for the County regs?”

Chad Gaddie, Legal Counsel: “Right, because we can’t do anything that the State blocks.”

Mr. Whitson, Chairman: “I know we have done that on several health related issues as far as how many animals you can have per acre and this and that. We just used State and Federal regs because you can’t supersede them anyway.”

Chad Gaddie, Legal Counsel: “If you have any interest, you can go online to the Department of Health and Senior Services and from there it will take you to the Medical Marijuana page and they have drafts of the proposed regulations.”

Denise Embrey, Director: “So, as far as the zoning goes, in the manufacturing, I was proposing A-2, but do we have to wait on the State to see what they think?”

Chad Gaddie, Legal Counsel: “Yeah, those regulations will also be coming at you.”

Mr. Whitson, Chairman: “So we are just on hold until the State comes out with something.”

Shirley Day: Board Member: “Can the County make the regulations more stringent than the State or no?”

Chad Gaddie, Legal Counsel, responded he did not believe it could be made stricter than what the State does.

Fred Corkins: Board Member: “You can on a septic. The Department of Health and Senior Services handles all septic. Our rules are the ‘Green Book’, which is a State book, but there are several counties that have more stringent rules.”

The next topic on the Agenda was Tiny Homes zoning, requirements, restrictions and fees.

Denise Embrey, Director: “I just propose we follow the R-1 regulations and guidelines.”

Steve Reardon, Vice-Chair: “Some of those do have composting toilets. Does that mean you are going to make them hook up to a septic or something that that they can use a composting toilet?”

Denise Embrey, Director, asked Fred Corkins, Board Member, what he thought on this. He said he had only received one call on them. He asked if the State had handled anything on them. Chad Gaddie, Legal Counsel, said he was not aware of it as well as other Board Members who responded.

Shirley Day: Board Member: “If they are going to put it on property, wouldn’t they have to go through the regulations of a Conditional Use Permit?”

Steve Reardon, Vice - Chair: “If it is temporary though, if somebody pulls in there for three to four months, what are you doing then? Would that be treated differently if you are just coming through as a worker?”

Denise Embrey, Director: “They could get a Temporary Use Permit for six months and then after that they would have to apply for a Conditional Use or a rezoning.”

Discussion was held by several Board Members regarding the placement of the tiny houses next to a residence and using the septic system located there and other issues that could occur. A tiny home could be left on the wheels or they could be taken off. The regulations would be different on each type. Container pod homes were also introduced as another use for housing since they were similar to tiny homes.

Glen Frakes: Board Member: “Do you want to put any kind of restrictions on them on how little they could build them?”

Denise Embrey, Director: “If we go with the R-1 zoning, the lot has to be 8,000 square feet with a lot width of 70’.”

Mr. Whitson, Chairman: “Do you just want to handle them on the basis of a regular house and go with a Conditional Use? We will just address them as they come in and treat them as a regular house.”

Next up were building permit fees for silos and grain bins. This was suggested by the Assessor’s Office.

Mr. Whitson, Chairman: “Right now, we don’t charge any fees for silos and grain bins.”

Johnaphine Fenton: Board Member: “Do we have any restrictions on setting them up?”

Denise Embrey, Director, stated we had nothing on them and there had not been issues with them until now.

Steve Reardon, Vice - Chair: “I think they are wanting to track this stuff because they are very expensive. Some of these are \$150,000. If they don’t get them on the books, they have no way of tracking them and taxing them unless they go out there and actually inspect it. They are wanting us to permit them so they can get them on the books immediately.”

Mr. Whitson, Chairman, replied they wanted to charge a fee.

Steve Reardon, Vice - Chair: “So, they come to the Office to get a permit and then they are on the assessed. So, they are wanting us to do partly their work I would say.”

Mr. Whitson, Chairman, responded they could get a permit and not be charged a fee. The Assessor would know they were there and that would be his issue. The Assessors are coming around and flying over and checking everything anyway.

Pat McLear: Board Member: “What do the other counties do? When I looked at four or five counties when we were trying to decide what to charge for a barn, I never read anything in any of their regulations about charging fees for grain bins and silos.”

Mr. Whitson, Chairman, replied he didn’t think any of them did. Denise Embrey, Director, stated she did not see where we would have to.

Steve Reardon, Vice - Chair: “Well, it’s kind of like we have a fee for demolition and I think that is kind of an impediment to get things torn down, but it does also get that structure off of your tax roll too. It kind of works both ways. If you don’t want to pay taxes on a structure that is dilapidated, you have to come in and pay a fee and then they will take it off your taxes. So, I can see where that would make it fair every time you build anything at all, you would want some sort of permit, but I don’t know if we should charge for every one of them.”

Glen Frakes: Board Member: “Maybe if they know that they had to come get a permit and it doesn’t cost anything, they would come get a permit.”

The Board then had discussion how people would even know they needed to come and get a permit.

Mr. Whitson, Chairman: “What’s your wishes on the grain bins and silos?”

Shirley Day: Board Member: “I would hesitate to put a fee on it. If we want to talk about a permit, get the permit, but I would sure hate to put a fee on it.”

Steve Reardon, Vice - Chair: “I assume the Assessor is going to evaluate the price. On your permit you don’t ask if this is a \$150,000 grain bin do you?”

Denise Embrey, Director: “Actually, I do ask for the estimated cost. That’s on everything.”

Mr. Whitson, Chairman: “Do you want to make a permit necessary for a grain bin but not charge a fee or just let it go and let the Assessor worry about it?”

Denise Embrey, Director: “I think it is the Assessors issue myself.”

Fred Corkins: Board Member: “My opinion is to just let it go.”

The Board Members agreed to leave it alone.

Discussion was then held on the Buchanan County Wind Energy proposal that was presented regarding the setbacks.

Mr. Whitson, Chairman: “Right now the County is thinking they will be ready with something hopefully in June. They will come before us. We will have to have a Public Hearing then, a Public Hearing in July and then vote on it in August. The County may opt to have outside this Committee some public hearings here and there throughout the County so people can voice their concerns and they can explain what they are doing to get it all lined up and going. Now, we are not really voting on, what we will be voting on are the regulations. We will not be voting on any windmills yet. That is way down the road. Right now we are just trying to get some regulations on the books so when that does come to us, we will have something.”

Shirley Day, Board Member, questioned what the current setback was.

Mr. Whitson, Chairman: “Right now we don’t have anything. See, that is the issue. Some other counties have 1000’. They just have different things. This is just what is being proposed for our particular County.”

Mr. Whitson, Chairman, asked if anyone else would like to speak.

Scott Burnham, Eastern District Commissioner: “I would just like to let everyone know what we are doing. Obviously, this is a hot topic and as a Commission we feel like we really need to take our time to make sure we have dotted our i’s and crossed our t’s, because as you all know, a lot of counties have been sued by both sides, from the energy companies and also from the people who are against the windmills as well. So, what we are trying to do if at all possible is avoid that, so we have to be very careful in the steps that we take and make sure we are going in the right protocol. One of the things we are looking at doing is probably getting some outside expertise in this because, chances are, I can surely speak for the Commission, but I am guessing even the people around this table have not had a lot of experience with wind turbines yet. We have read a lot of information and been to meetings and talked about it. We are trying to educate ourselves going through this process and we just want to make sure that we are doing everything that we can. So, whatever we come up with, regardless of what that looks like, that we have put ourselves in the best position to avoid any legal action being taken. I think at the end of the day, that is what we all want because, it is very costly and time consuming and we want to make sure we try avoid that at all possibility. This morning we sat down and talked about a timeline on when we think we can...ideally we think we can get the right people in place to help us, and I am talking about outside experts to come in and help us formulate these. We would like to have something by May potentially. We might stretch that out to June to give us a little more time. We want to get that in your hands as soon as we possibly can. At the June meeting, we can have that ready for you guys and give that to you. We can have a group discussion added to the agenda if you want or we can say this is just for you to look at and digest and when we get ready to vote on it in August, it’s kind of a time frame, we would like to have about 60 days between the June meeting and the August meeting to allow for some public hearings because, this will be a very hot topic. At the meeting I went to in Cameron, they had over 250 people I am guessing. There will be a lot of people that want to talk. This hearing will probably last for days so, we are probably going to have to come up with some rules on the hearing. But, that’s okay. We need to hear from both sides. We just want to make sure as we go through this process that we are doing it diligently and doing it with the best thing in place to make sure we avoid any legal consequences from either side. That’s going to be a huge challenge. Most counties haven’t been able to accomplish that.”

Mr. Whitson, Chairman: “If you could have it to us by June, us have a July meeting even if there isn’t anything else on the agenda, that way we will have 30 days to read it and think it over, maybe make some changes or suggestions at a July meeting and then the final vote will be in August. I would suggest on the wind energy deal, we would handle it like we did with the landfills. We would give the County so long to present theirs and then give the opposition the same amount of time to present theirs. We would put a time limit on it. This could go on forever. That seemed to work pretty good. That’s the way I would like to see us handle it because it seemed to work pretty good then. Can you limit that to just County residents to speak?”

Chad Gaddie, Legal Counsel: “I think you can, but I will tell you that with a warning. It probably needs to be researched. I think those are the people that have the true interest in the standing. I think you could make that argument.”

Jim Whitson, Chairman, then asked if we had anything else. Denise Embrey, Director, responded there would be a meeting on May 15th.

A motion was made and seconded to adjourn the meeting at 8:00 p.m.

Denise K. Embrey
Director of Planning + Zoning